

Exhibit 5

Lawyer: City should settle Furstenau suit

Says costs could be avoided; city says it's about personal gain

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After Councilman Richard Furstenau was publicly blamed for the city's highest property tax increase in 17 years at a special meeting Wednesday, his lawyer said the city should settle a lawsuit that could potentially cost the city \$1 million or more.

"I suppose the city feels it has the right to spend \$1 million or more to fight a case it could have settled for \$129,500," Shawr the letter addressed to the city Thursday.

"Furstenau remains willing to settle this case for an apology and less money than what the city has budgeted for legal fees,"

Collins would not disclose the dollar amount Furstenau is currently asking for Thursday but said he would be willing to settle \$600,000 in defense funds the city budgeted for the new fiscal year.

"I do want to stress that the apology is very important to Mr. Furstenau as well," Collins said. "We don't want to lose sight of

The lawyer handling the case for the city, Terrence J. Sheahan, said the city would only get into settlement talks confidentially opposing parties involved.

"It is clear that Mr. Furstenau would rather fight this dispute in the media than on the merits in a court of law," Sheahan responded.

"It is our view that this has always been about Mr. Furstenau's personal financial gain," he continued.

Councilman Grant Wehrli criticized Furstenau's civil rights lawsuit against the city Wednesday, shortly before council members approved the city budget for the fiscal year 2008-2009, which begins May 1. The council agreed to a 2-cent increase over the current tax rate of \$.7166, or about 71 cents per \$100 of equalized assessed valuation. The average property value in Naperville is \$100,000 this year.

Wehrli, however, said two-thirds of the increase will pay for defending the city against Furstenau's lawsuit, which was confirmed by City Director Doug Krieger. Furstenau filed a lawsuit in federal district court at the end of October against the city and a few members of the Naperville Police Department. In December, former City Manager Peter Burchard, City Attorney Margo Ely and president of the Fraternal Order of Police Joe Matchett were added to the list of defendants.

The lawsuit stems back to a Jan. 1, 2006, arrest of Furstenau for which he was later acquitted of all misdemeanor battery charges after allegedly shoving a police officer with the back of his hand during an argument about towing cars from Chicago Avenue before the city's 175th anniversary parade.

Collins pointed out Thursday that Furstenau originally approached the city in June of 2007 asking for an apology for the incident and for officers to be disciplined. The city denied the request.

Furstenau then followed with a letter in August of 2007 asking Burchard for an apology and \$129,529.10 to reimburse contributions to his campaign for the state Senate.

Furstenau claimed his chances for winning were ruined by the arrest.

The city denied the request.

The city has already spent \$275,000 this fiscal year on defending itself against the litigation.

"You noted the fact that the potential defense costs for this litigation have substantially increased," Sheahan said in response to the proposal. "As you are fully aware, Mr. Furstenau is directly responsible for this increase."

Sheahan continued by calling the lawsuit "frivolous."

"Now we can get to what this case is really about: money," he said.
